

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HOMEOWNERS ASSOCIATION LAWS;
5 PROVIDING FOR RESTRICTIONS ON RENTALS; ALLOWING HOMEOWNERS TO ASSERT EXCEPTIONS;
6 AMENDING SECTION 70-23-507, MCA; AND REPEALING SECTION 70-17-901, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 70-23-507, MCA, is amended to read:

11 **"70-23-507. Restriction on covenants by association of unit owners.** An association of unit
12 owners shall abide by the provisions of ~~70-17-901~~ [section 2]."

13
14 NEW SECTION. **Section 2. Limits on restriction of rentals.** (1) A homeowners' association may not
15 enter into, amend, or enforce a covenant, condition, or restriction in such a way that imposes more onerous
16 restrictions on the rental of a member's property than those restrictions that existed when the member acquired
17 the member's interest in the real property, unless the member who owns the affected real property expressly
18 agrees in writing at the time of the adoption or amendment of the covenant, condition, or restriction.

19 (2) When a member claims the benefit of subsection (1), the member or a designee shall record the
20 member's exception with the office of the county clerk and recorder of the county where the real property is
21 situated within 120 days of the adoption or amendment of the covenant, condition, or restriction. The member
22 shall provide the homeowners' association with the date the real property was conveyed to the member and
23 shall pay the recording fees for the document setting forth the exception. Failure to file an exception within 120
24 days of the adoption or amendment of the covenant, condition, or restriction waives a member's rights to the
25 benefit of subsection (1).

26 (3) A successor-in-interest to a member's real property may not claim the benefit of subsection (1) to
27 the extent that the homeowners' association entered into, amended, or enforced a covenant, condition, or
28 restriction before the successor-in-interest purchased the real property, even if the covenant, condition, or

1 restriction was not enforceable against the previous owner pursuant to subsection (1), unless the successor-in-
2 interest is owned by or shares ownership with the previous member or unless the successor-in-interest is a
3 lender that acquired the real property through foreclosure.

4 (4) A member or a successor-in-interest to a member's real property may waive the benefit of
5 subsection (1) in a written declaration submitted to the homeowners' association.

6 (5) This section does not apply to a covenant, condition, or restriction:

7 (a) that is not subject to enforcement by homeowners' association; or

8 (b) that is required in order to comply with applicable federal, state, and local laws, ordinances, and
9 regulations.

10 (6) As used in this section, the following definitions apply:

11 (a) "Homeowners' association" means:

12 (i) an association of all the owners of real property within a geographic area defined by physical
13 boundaries that:

14 (A) is formally governed by a declaration of covenants, bylaws, or both;

15 (B) may be authorized to impose assessments that, if unpaid, may become a lien on a member's real
16 property; and

17 (C) may enact or enforce rules concerning the operation of the community or subdivision; or

18 (ii) an association of unit owners as defined by 70-23-102 subject to the Unit Ownership Act.

19 (b) "Member" means a person that belongs to a homeowners' association and whose real property is
20 subject to the jurisdiction of the homeowners' association.

21 (c) "Real property" has the meaning provided in 70-1-106, except that it is limited to real property
22 governed by a homeowners' association.

23

24 NEW SECTION. Section 3. Repealer. The following section of the Montana Code Annotated is
25 repealed:

26 70-17-901. Homeowners' association restrictions -- real property rights.

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28 NEW SECTION. Section 4. Codification instruction. [Section 2] is intended to be codified as an

1 integral part of Title 70, and the provisions of Title 70 apply to [section 2].

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